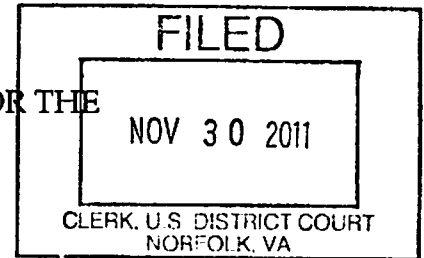


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION



UNITED STATES OF AMERICA

Plaintiff,

v.

JAMES R. CLAY,
RENEE ANDREU, and
COUNTRYWIDE HOME LOANS,
Defendants.

No. 2:10cv264

JUDGMENT ORDER

With default having been entered against defendant James R. Clay, judgment is entered in favor of the United States and against the defendant as follows:

1. On Count II of the complaint, the Court holds that, as a result of the assessments described in Count I of the Complaint, the United States has valid and subsisting liens against all property and rights to property belonging to defendant James R. Clay, including, but not limited to, the following real property commonly known as 2716 Coldwell Street, Virginia Beach, Virginia, (the "Real Property") and more particularly described as:

ALL THAT certain real property situated and being in the City of Virginia Beach, Virginia, with all rights, ways, easements, improvements and appurtenances thereunto belonging, described as follows:

LOT 69, as shown on that certain plat entitled, "SUBDIVISION OF PARCEL 2C-1, COURTHOUSE ESTATES, PHASE 2A, SECTION M-5, JULY 28, 1995, PRINCESS ANNE BOROUGH - VIRGINIA BEACH, VIRGINIA", which said plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia in Map Book 248, at pages 9 through 15, inclusive.

2. It is therefore ORDERED that the Real Property, as described above, be sold in satisfaction of the liens of the United States, as the liens pertain to the Real Property, pursuant to the following terms:

- a. The Internal Revenue Service Property Appraisal and Liquidation Specialist ("PALS") is authorized under 28 U.S.C. §§ 2001 and 2002 to offer for sale at public auction, and to sell the Real Property;
- b. The PALS is authorized to have free access to the Real Property and to take all actions necessary to preserve the Real Property, including, but not limited to, retaining a locksmith or other person to change or install locks or other security devices on any part of the property, until the deed to the Real Property is delivered to the ultimate purchaser;
- c. The sale shall be subject to building lines, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the Real Property, and any easements and restrictions of record, if any;
- d. The subject property shall be sold by public auction to take place within Virginia Beach, Virginia, either on the premises of the Real Property or at any other place in accordance with the provisions of 28 U.S.C. §§ 2001 and 2002;
- e. The time and place for the sale of the Real Property are to be announced by the PALS;
- f. The sale of the Real Property shall be advertised once each week for four (4) consecutive weeks preceding the time fixed for such sale in a daily newspaper of

general circulation in Virginia Beach, Virginia, and by any other notice that the PALS in his/her discretion may deem appropriate. The notice(s) of sale shall contain a description of the property to be sold and shall contain the terms and conditions of sale in this order and decree;

g. The PALS shall set a minimum bid greater than or equal to the amount necessary to fully satisfy the costs of the sale and to pay Countrywide's Lien in full, including Countrywide's reasonable attorneys' fees and costs incurred in this action, as permitted under the operative Deed of Trust. If the minimum bid is not met, the Real Property shall be again offered for sale under the terms and conditions of this Order;

h. If there are any municipal liens on the Real Property, the United States shall obtain from the municipality a bill, statement, or claim for any delinquent amounts secured by such liens and deliver same to the PALS ten days in advance of said sale. Satisfaction of any municipal liens shall be from the sale proceeds pertaining to the property subject to such liens, and the Real Property shall be sold free and clear of such municipal liens;

i. No bid on the Real Property (except as to the United States) shall be accepted unless the same is accompanied by a certified check or a cash deposit of at least ten percent (10%) of the amount of the bid. Before being permitted to bid at the sale, bidders shall display to the PALS proof that they are able to comply with this

requirement. No bids will be received from any person who has not presented proof that, if they are the successful bidder, they can make the deposit required by this order;

j. The balance of the purchase price of the subject property shall be paid to the PALS within sixty (60) days after the date the bid is accepted. Payment shall be by a certified or cashier's check payable to the Clerk of the United States District Court for the Eastern District of Virginia. If the bidder fails to fulfill this requirement, the deposit shall be forfeited and shall be applied first to cover the expenses of the sale, with any amount remaining to be distributed to the United States of America for application to the unpaid federal income tax assessments made against the defendant James R. Clay for the 1999, 2000, 2001, and 2002 tax years, and the Real Property shall be again offered for sale under the terms and conditions of this order.

k. The sale of the Real Property shall be subject to confirmation by this Court. On confirmation of the sale, the PALS shall execute and deliver a deed of judicial sale conveying the Real Property to the purchaser(s). Upon confirmation of the sale, all interests in, liens against, or claims to, the Real Property that are held or asserted by plaintiff or any of the defendants and any successors in interest or transferees to such parties are discharged and extinguished.

l. No later than twenty (20) days after receipt of the balance of the purchase price, the PALS shall file a report of sale with the Court, together with a proposed order of confirmation of sale and proposed deed.

m. After the distribution of the proceeds, the Circuit Court of Virginia Beach, Virginia shall proceed to record the deed in favor of the purchaser. The responsibility for recording the deed with the Circuit Court of Virginia Beach, Virginia, and the payment of all costs, fees, and taxes of whatever kind related to the recording of said deed shall be borne by the purchaser as a term and condition of the sale.

n. Until the Real Property is sold, defendants James R. Clay and Renee Andreu shall take all reasonable steps necessary to preserve the Real Property (including all improvements, fixtures and appurtenances) in its current condition including, without limitation, maintaining fire and casualty insurance on the Real Property at their own expense. James R. Clay and Renee Andreu shall not commit waste against the property, nor shall they cause or permit anyone else to do so. They shall not do anything that tends to reduce the value or marketability of the Real Property, nor shall they cause or permit anyone else to do so. They shall take no action which may tend to deter or discourage potential bidders from participating in the public auction.

o. All persons occupying the Real Property shall permanently leave and vacate the premises upon receiving 30 day notice from the Internal Revenue Service, taking with them their personal property (but leaving all improvements, buildings, fixtures and appurtenances to the Real Property). If any person fails or refuses to vacate the Real Property by the time specified in this Order, the United States Marshal's Office is authorized to take whatever action it deems appropriate to remove such person from

the premises. If any person fails or refuses to remove his or her personal property, such property is deemed forfeited and abandoned, and the Internal Revenue Service is authorized to dispose of such personal property in any manner it deems appropriate, including, but not limited to, the sale of such personal property. The proceeds of the sale of any such personal property shall be applied first to the expenses of sale, with any amount remaining to be distributed to the United States of America for application to the unpaid federal income tax assessments made against the defendant James R. Clay for the 1999, 2000, 2001, and 2002 tax years.

p. The proceeds from the sale of all of the subject property shall be distributed in the following order:

1. First, to defendant Countrywide Home Loans up to the amount then due and owing on its mortgage lien against the Real Property, including Countrywide's reasonable attorneys' fees and costs incurred in this action, as established by the procedure described in paragraph (q) below;

2. Second, to the United States Treasury, for the expenses of the sale, including any expenses incurred to secure or maintain the property pending sale and confirmation by the Court;

3. Third, to any municipality to satisfy any municipal liens on the Real Property as stated in paragraph (h) above;

4. Fourth, the remaining proceeds shall be distributed to the plaintiff United States of America for application to the unpaid federal income tax assessments

made against the defendant James R. Clay for the 1999, 2000, 2001, and 2002 tax years, including all accrued statutory penalties, additions, and interest, until fully paid; and


5. Fifth, any surplus of the sale proceeds from the Real Property shall be deposited with the Clerk to be held until further order of the Court;

q. At least fourteen days prior to the sale, Countrywide shall file with the Court a certified claim in a sum certain (computed through the date of sale) for the balance due on Countrywide's Lien (the "Claim"). Countrywide shall send a copy of the claim to the Parties. In the event that defendant Countrywide Home Loans' claim includes fees above and beyond the amount then due and owing on its mortgage on the Real Property, the United States reserves the right to object to any fees that it deems to be unreasonable and to have any such objections ruled on by the Court.

r. Plaintiff shall provide Countrywide a minimum advance notice of thirty days prior to the date of any scheduled sale of the Real Property ("Notice"). The Notice shall include the date, time and location of any scheduled sale, as well as the terms by which such sale shall be conducted. Notice shall be provided by the Plaintiff to counsel for Countrywide.

s. This order shall act as a special writ of execution and no further orders or process from the Court shall be required.

Entered: November 30, 2011



Raymond A. Jackson
United States District Judge

Honorable Raymond A. Jackson
United States District Court Judge